IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6254 of 1987

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VISMADEV PRAMANIK

Versus

UNION OF INDIA

Appearance:

MR SP SINGH for Petitioner

RULE SERVED for Respondent No. 1, 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 29/09/2000

ORAL JUDGEMENT

Neither of the parties are represented before me. It appears that earlier the matter had come up for hearing on 23rd November, 1999 before this court (Coram : Mr.Jutice D.H.Waghela). Since the learned advocate for the petitioner was not present on call, the court had

directed notice to issue upon the petitioner. I am informed that pursuant to the said direction, the notice was issued to the petitioner and has been served on 18th December, 1999. Even then, no appearance is entered by the petitioner.

It appears that the petitioner was serving in the Army in the rank of CFN (No. 14569200) Trade Engineering and Equipment Mechanic in the Electrical and Mechanical Engineering Wing. It appears that at the relevant time, he was posted at Ahmedabad. On 19th June, 1986, a notice was issued upon the petitioner informing him that he was found unfit for further retention in the service, and his service was no longer required under the provisions of the Army Rule-13 Table-3 (iii) (v), and was called upon to show cause why he should not be discharged from service for the reasons stated in the notice. He was further informed that his reply should reach the office of the signatory by 25th June. 1986. Since then, the petitioner appears to have been discharged from service (the order of discharge is not on the record) On 19th February, 1987, the petitioner appears to have made a representation to the respondents herein and also to the Secretary, Ministry of Legal Affairs and the Officer Incharge, Record Officer, Electrical and Mechanical Engineering, Secundrabad.

The petitioner has prayed that the letter dated 10th April, 1986, referred to in the show cause notice dated 19 June,1986, be quashed and set aside, and that the show cause notice dated 19th June, 1986, also be quashed and set aside. He has also prayed for consequential benefits of continuation in service, salary, increment, remuneration, allowances etc.

In my view, the petition is wholly misconceived. A petition against the show cause notice is ordinarily not maintainable and the petitioner has not challenged the order of discharge. Besides, the letter of 10th April, 1986, referred to in the show cause notice dated 19th June, 1986, has not been produced on the records of the matter. In absence of such materials, the petition can not be entertained.

Petition is accordingly dismissed. Rule is discharged.

(MS R.M.DOSHIT J)

JOSHI